

## **“PUBLIC FUNDS EQUAL PUBLIC BENEFITS”**

### **Overview of Title VI of the Civil Rights Act of 1964 (Text Only)**

#### Learning Objective

- Define Title VI and Related Authorities
- Define CRA Title VI Roles and Responsibilities

The U.S. Department of Transportation (also commonly referred to as the USDOT or DOT) is a federal agency that distributes funds, sets policy for safety, and provides other guidance for transportation by air, highways, rail, transit, and water.

The DOT is comprised of **10 operating administrations**, including the Federal Highway Administration (or FHWA). As an operating administration of the DOT, the FHWA is charged with the broad responsibility of ensuring that America’s roads and highways continue to be the safest and most technologically up-to-date. Although State, local, and tribal governments own most of the Nation’s highways, the FHWA provides federal financial and technical support to these entities for constructing, improving, and preserving America’s highway system. The FHWA’s annual budget is primarily divided between two programs:

- Federal-Aid Highway funding to State and local governments; and
- Federal Lands Highways funding for national parks, national forests, Indian lands, and other land under Federal stewardship.

The FHWA, in concert with State and local agencies, make the decisions regarding any ground transportation that we use on a daily basis. Through their transportation planning efforts, they work out the best ways to transport us to where we live, work, shop, go to school, take vacations or anywhere else we need to go.

In accordance with Title VI of the Civil Rights Act of 1964, the FHWA and its recipients consider the impacts of highway development and travel, transportation needs, engineering and safety aspects, social economic and environmental effects and project costs to carry out its responsibilities.

#### ***FHWA Recipients/Subrecipients***

The FHWA provides Federal financial assistance almost exclusively to State transportation agencies referred to as recipients, for construction activities. State highway agencies receive the Federal funds based on legislative formulas. They and their sub-recipients and contractors award federally assisted contracts. As recipients, state highway agencies are responsible for ensuring that their programs and activities and those of the subrecipients and contractors do not discriminate in their use of federal funds.

In the case of the FHWA, the State Transportation Agencies (or STAs) are the direct recipients of Federal funds for the development of highway projects and programs. The STAs have the responsibility to ensure that the sub-recipients who implement highway programs and projects comply with CRA's Title VI requirements.

### **FHWA Project Phases**

All Federal, State, and local public agencies must comply with regulations, standards and procedures with regard to the use of Federal funds. As a result, FHWA programs undergo a rigorous evaluation and implementation process to verify and validate compliance to Title VI nondiscrimination statutes. This applies to other entities receiving Federal financial assistance for public programs and projects, as well. Although the entity name may vary by state with distinct activities, there are five key phases of a highway development project. They include:

- Planning
- Project Development
- Right-of-Way
- Construction, and
- Research

During the *Planning* phase, State DOTs, Metropolitan Planning Organizations (or MPOs), and local governments identify transportation needs and program projects to be built within financial constraints. The *Project Development* phase includes Design. It is during this phase that the transportation project is more clearly defined. Alternative locations and design features are developed and an alternative is selected. Additionally, during this phase, the design team develops detailed Plans, Specifications, and Estimates (or PS&Es). Additional land needed for a project is purchased during the *Right-of-Way* phase. During the *Construction* phase, the State or local government selects the contractor, who then builds or constructs the project. Finally, the *Research* phase includes transportation-related research that may be funded with federal funds. In this regard, if a university or college is involved in a transportation-related, FHWA-funded project, they cannot discriminate in the administration and execution of said project or program.

### **The FHWA Title VI Program**

As prescribed in Title VI of the CRA, each federal agency has a responsibility to ensure meaningful access to their programs by issuing rules, regulations, or orders consistent with achievement of the objectives of their programs and services. The FHWA Title VI Program, as defined in **23 CFR Part 200**, is the method of administration by which the FHWA ensures that its recipients and subrecipients do not discriminate in its programs and services in the use of the federal funds distributed to them. The purpose of the FHWA Title VI program is to ensure that:

- (1) Each applicant for or recipient of Federal financial assistance is, and will continue to be, in compliance with CRA Title VI, as well as the guidance from other federal statutes

- (2) The program or activity for which Federal financial assistance is sought is consistent with the FHWA's Title VI Program.

In this latter regard, the objective is to ensure among other things that:

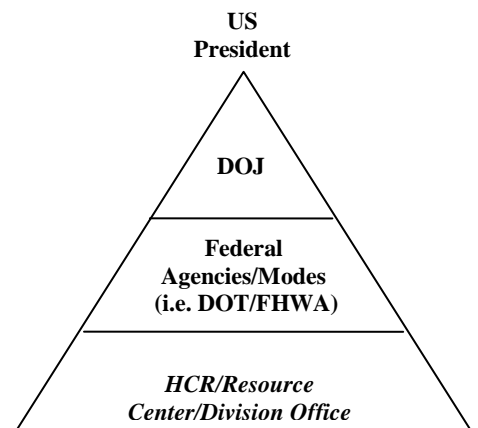
- (1) The benefits and services of the program or activity are made available to, and are fairly and adequately distributed among beneficiaries without regard to race, color, or national origin;
- (2) The location of existing or proposed facilities and the provision of services involved in the program or activity will not deny access to any person on the basis of prohibited discrimination; and
- (3) Persons in the affected community are not differentially or adversely impacted on the basis of race, color, or national origin.

## **Title VI Programs**

### ***CRA Title VI Roles and Responsibilities***

As defined in the CRA, the President of the United States is responsible for enforcing the provisions of the CRA. This authority was later delegated by President Carter in 1980 **via** Executive Order 12250 to the Department of Justice. The Department of Justice has oversight and enforcement responsibilities for CRA Title VI as defined in 28 CFR Part 42.

Each Federal agency is also responsible to ensure that this law is enforced to ensure that the programs and services of its agency are provided in a nondiscriminatory manner. For the Department of Transportation and FHWA, these provisions are defined in 49 CFR Part 21 and 23 CFR Part 200 respectively.



However, before any Federal agency, including the FHWA, can ensure that the law is enforced, they must fully understand the *purpose* of Title VI. Title VI was created to eradicate discrimination in programs or activities funded by the Federal Government by prohibiting a broad range of discriminatory activities that extend into every area of a person's national life, including:

- |                              |                        |
|------------------------------|------------------------|
| • Programs for schools       | • Highways             |
| • Hospital construction      | • Farm price supports  |
| • Depressed areas            | • Housing              |
| • Urban renewal              | • Vocational education |
| • Ship and airline subsidies | • Disaster relief      |
| • Civilian defense           | • School lunches       |
| • Public health              | • Transportation       |

Specifically, Title VI of the Civil Rights Act of 1964 provides that:

**“No *person*<sup>1</sup> *in the United States*<sup>2</sup> shall, on the ground of *race, color, or national origin*<sup>3</sup>, *be excluded from participation in, be denied the benefits of, or be subjected to discrimination*<sup>4</sup> under any *program or activity*<sup>5</sup> *receiving*<sup>6</sup> *Federal financial assistance*<sup>7</sup>.”**

Although Title VI was specific regarding its purpose and intent, the **Civil Rights Restoration Act of 1987**, (P.L. 100-209) further amended Title VI to include protection against discrimination in all programs and activities provided by federal-aid recipients, sub-recipients and contractors, whether such programs and activities are federally-assisted or not. This was but one of the many amendments that would follow to ensure fair and equitable provision of public programs, services, and activities in the years to come.

#### **OTHER NONDISCRIMINATION AUTHORITIES AND RELATED STATUTES APPLICABLE TO FHWA**

FHWA nondiscrimination coverage is not limited to the prohibitions of race, color and national origin as specified in Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987. In addition to the Title VI Act of 1964 and the Civil Rights Restoration Act of 1987, other nondiscrimination authorities and related statutes exist to further enhance Title VI's original nondiscrimination mandates. These authorities and statutes not only include two Executive Orders signed by President Clinton, they also include statutes that provide additional guidance to address specific issues not previously covered in Title VI.

- **Executive Order 12898 of February 11, 1994 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**

**Executive Order 12898** requires federal agencies to collect data on the health and environmental impact of their activities on communities of color and low-income populations, and develop policies incorporating the principles of environmental justice into their programs and activities.

- **Executive Order 13166 of August 11, 2000 Improving Access to Services for Persons with Limited English Proficiency**

In 2000, President Clinton signed Executive Order 13166 entitled “Improving Access to Services for Persons with **Limited English Proficiency**”. Persons who have a limited ability to **read, write, speak**, or understand English (or LEPs) are entitled to language assistance with respect to a particular type of service, benefit, or encounter by this executive order.

- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** provides for fair treatment of persons displaced by federal and federal-aid programs and projects.
- **The 1973 Federal Aid Highway Act** prohibits discrimination on the basis of sex.
- **Section 504 of the Rehabilitation Act of 1973** prohibits discrimination based on physical or mental handicap.
- The **Age Discrimination Act of 1975**, as amended, prohibits discrimination based on age.

The procedures used by the federal agencies to ensure compliance with the aforementioned legal provisions of Title VI of the CRA are called ***Title VI Programs***. Title VI Programs describe the procedures used to ensure compliance with the legal requirements of Title VI of the CRA, as outlined in the Code of Federal Regulations (CFR). Additionally, Title VI Programs must define both proactive measures to ensure that the programs and services are not discriminatory and reactive measures in the event a complaint is filed.